

REMARKS**Status of the Claims**

The pending Office Action addresses claims 1-21. Claims 19-21 are allowed. Claims 1-8 stand rejected. Claims 9-18 are objected to. Applicant cancels rejected claims 1 to 6. Applicants further amend claim 7 to recite a "spinal disc prosthesis" as formerly recited in claim 12, which is now canceled. Applicants add new claims 22 to 26. New independent claim 22 corresponds to claim 16, the subject matter of which was considered allowable in the office action. New dependent claims 23 to 26 correspond to claims 8 to 11 with new dependencies. No new matter is added.

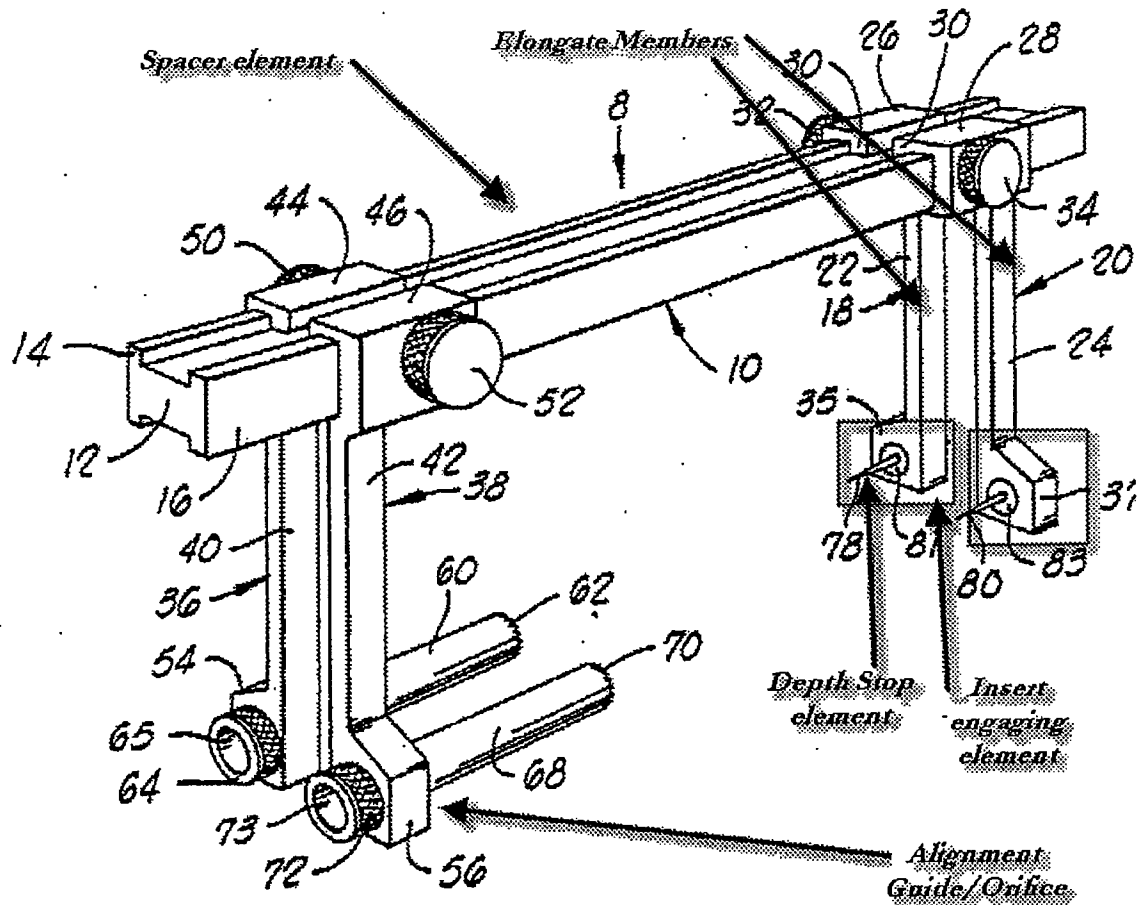
Rejections Pursuant to 35 U.S.C. § 102(b)

The Examiner rejects claims 1-8 pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,848,327 (Perdue). Specifically, The Examiner states:

Perdue discloses an alignment verification device comprising a spacer element having proximal and distal portions and an insert engaging element disposed on the distal portion; and an alignment guide surface affixed to the spacer element and defining an alignment orifice, the alignment orifice being spaced apart from the insert engaging element. The insert engaging element is a generally rectangular element sized to fit within a slot formed on the surface of a spinal disc insert prosthesis. The insert engaging element further comprises a depth stop element. The spacer element includes two elongate members with the alignment guide fixed between the elongate members, each elongate member having an insert engaging element. Each insert engaging element is a generally rectangular element sized to fit within a slot formed on the surface of a spinal disc insert prosthesis. At least one of the insert engaging elements includes a depth stop element. A prosthesis (see FIG. 8) has an engaging element and a visual indicator element, the engaging element configured to releasably engage the prosthesis engaging element of the alignment verification device so that, upon engagement, the alignment orifice is spaced apart from the visual indicator element. The engagement of the alignment verification device with the prosthesis is adapted to permit a sighting element of an image obtaining device to be aligned with the alignment orifice and the visual

indicator element so that an image obtaining device is aligned with the prosthesis in a known orientation.

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Allowable Subject Matter

The Examiner states:

Claims 9-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-21 are allowed.

Response

Applicant appreciates the Examiner's willingness to discuss the outstanding rejection with Applicant's representative on June 24 and again on June 26. During those discussions, Applicant's representative and the Examiner agreed that amending independent claim 7 to include the "spinal disc prosthesis" of allowable claim 12 (though without the intervening recitations of claim 8) would distinguish claim 7 over the prior art. Applicant has made that amendment and cancelled claim 12 herein. Applicant submits that claim 7, as well as claims 8 to 11 and 13 to 18, which depend from claim 7, are now in condition for allowance.

New claim 22 corresponds to allowable claim 16, and so claim 22, as well as claims 23 and 26 that depend therefrom, are also in condition for allowance.

As the only other claims, 19 to 21, are allowed, Applicant submits that the application is in condition for allowance.

CONCLUSION

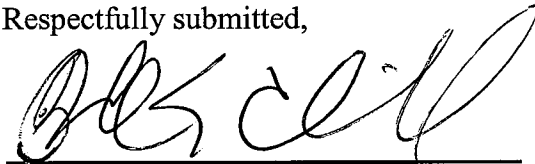
The pending claims are in condition for allowance. Applicants request that the Examiner telephone the undersigned in the event that such communication is deemed to expedite prosecution of this matter.

In the event that a petition for an extension of time is required to be submitted at this time, Applicant hereby petitions under 37 CFR 1.136(a) for an extension of time for as many months as are required to ensure that the above-identified application does not become abandoned.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 141449, under Order No. 101896-31.

Date: July 1, 2008

Respectfully submitted,



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